

AMENDED IN ASSEMBLY MARCH 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 91

Introduced by Assembly Member Feuer
*(Coauthors: Assembly Members Hill, Huffman, Jeffries, Jones, Nava,
Saldana, and Torlakson)*
(Coauthors: Senators Cox and DeSaulnier)

January 6, 2009

An act to add and repeal Chapter 5 (commencing with Section 23700) of Division 11.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 91, as amended, Feuer. Vehicles: ~~DUI~~: *driving under the influence (DUI)*: ignition interlock device.

(1) Existing law requires a person's privilege to operate a motor vehicle to be suspended or revoked for a specified period of time if the person has been convicted of violating specified provisions prohibiting driving a motor vehicle while under the influence of an alcoholic beverage or drug or the combined influence of an alcoholic beverage and drug, or with 0.08% or more, by weight, of alcohol in his or her blood or while addicted to the use of any drug, with or without bodily injury to another. Existing law also authorizes a person whose privilege is suspended or revoked in that manner to receive a restricted driver's license if specified requirements are met, including, in some instances, the installation of an ignition interlock device on the person's vehicle.

~~Existing law requires the Department of Motor Vehicles to immediately suspend the privilege of a person to operate a motor vehicle when, among other things, the person was driving a motor vehicle when he or she had 0.08% or more, by weight, of alcohol in his or her blood.~~

~~Existing law specifies the period of that suspension depending on specified circumstances, including prior convictions of related offenses within a specified time period. Existing law authorizes a person whose privilege was suspended in that manner to receive a restricted driver's license if specified requirements are met.~~

This bill would require the department to establish a pilot program from July 1, 2010, to January 1, 2015, in ~~4 counties~~ *the Counties of Alameda, Los Angeles, Sacramento, and San Diego* that requires, as a condition of being issued a restricted driver's license, being reissued a driver's license, or having the privilege to operate a motor vehicle reinstated subsequent to a conviction for a violation of the above offenses, a person to install for a specified period of time an ignition interlock device on all vehicles he or she owns or operates and complete an enhanced alcohol and drug treatment and rehabilitation program that focuses on rehabilitation. The amount of time the ignition interlock device would be required to be installed would be based upon the number of convictions, as prescribed.

The bill would also set up a statutory scheme under which the department would, with regard to the installation of an ignition interlock device described above, notify the person of the ignition interlock device installation requirements established under the bill, accept notification from the installer of the ignition interlock device of attempts to remove, bypass, or tamper with the device or if the person fails 3 or more times to comply with the maintenance requirements, monitor the installation and maintenance of the ignition interlock device, and keep specified records.

On or before January 1, 2014, the department would be required to report to the Legislature regarding the effectiveness of the pilot program in reducing the number of first-time driving under the influence violations and repeat offenses in those counties.

These requirements would be in addition to existing law.

(2) Because it is a crime to operate a vehicle that is not equipped with a functioning, certified ignition interlock device by a person whose driving privilege is so restricted, the bill would impose a state-mandated local program, by expanding the scope of that crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5 (commencing with Section 23700) is
2 added to Division 11.5 of the Vehicle Code, to read:

3
4 CHAPTER 5. IGNITION INTERLOCK DEVICES
5

6 23700. (a) Notwithstanding any other provision of law, the
7 Department of Motor Vehicles shall establish a pilot program in
8 ~~the counties of _____, _____, _____, and _____ to reduce the number~~
9 *the Counties of Alameda, Los Angeles, Sacramento, and San Diego*
10 *to reduce the number* of first-time violations and repeat offenses
11 of Sections 23152 and 23153, as follows:

12 (1) The Department of Motor Vehicles, upon receipt of the
13 court's abstract conviction for a violation listed in paragraph (8),
14 shall inform the convicted person of the requirements of this
15 section, including the term for which the person is required to have
16 a certified ignition interlock device installed and a requirement
17 that the person complete an enhanced alcohol and drug treatment
18 and rehabilitation program. The records of the department shall
19 reflect the mandatory use of the device for the term required and
20 the time when the device is required to be installed by this code.

21 (2) The department shall advise the person that installation of
22 an ignition interlock device on a vehicle does not allow the person
23 to drive without a valid driver's license.

24 (3) Before a driver's license may be issued, reissued, or returned
25 to a person after a suspension or revocation of that person's driving
26 privilege that requires the installation of an ignition interlock
27 device, a person who is notified by the department pursuant to
28 paragraph (1) shall complete all of the following:

29 (A) Arrange for each vehicle owned or operated by the person
30 to be fitted with an ignition interlock device by a certified ignition
31 interlock device provider under Section 13386.

32 (B) Notify the department and provide to the department proof
33 of installation by submitting the "Verification of Installation" form
34 described in paragraph (2) of subdivision (g) of Section 13386.

1 (C) Pay the fee, determined by the department, that is sufficient
2 to cover the costs of administration of this section.

3 (4) The department shall place a restriction on the driver's
4 license record of the convicted person that states the driver is
5 restricted to driving only vehicles equipped with a certified ignition
6 interlock device.

7 (5) (A) A person who is notified by the department pursuant
8 to paragraph (1) shall arrange for each vehicle with an ignition
9 interlock device to be serviced by the installer at least once every
10 60 days in order for the installer to recalibrate and monitor the
11 operation of the device.

12 (B) The installer shall notify the department if the device is
13 removed or indicates that the person has attempted to remove,
14 bypass, or tamper with the device, or if the person fails three or
15 more times to comply with any requirement for the maintenance
16 or calibration of the ignition interlock device.

17 (6) The department shall monitor the installation and
18 maintenance of the ignition interlock device installed pursuant to
19 paragraph (1).

20 (7) A person is required to install an ignition interlock device
21 for the applicable term as a condition of being issued a restricted
22 driver's license, being reissued a driver's license, or having the
23 privilege to operate a motor vehicle reinstated subsequent to a
24 conviction for a violation or a suspension of a person's driver's
25 license, as follows:

26 (A) A person convicted of Section 23152 or whose driving
27 privileges are suspended pursuant to Section 13353.2 shall be
28 required to install an ignition interlock device, as follows:

29 (i) Upon a first offense, the person shall install an ignition
30 interlock device in all vehicles owned or operated by that person
31 for a mandatory term of five months that begins once that person
32 has provided proof of installation.

33 (ii) Upon a second offense, the person shall install an ignition
34 interlock device in all vehicles owned or operated by that person
35 for a mandatory term of 12 months that begins once that person
36 has provided proof of installation.

37 (iii) Upon a third offense, the person shall install an ignition
38 interlock device in all vehicles owned or operated by that person
39 for a mandatory term of 24 months that begins once that person
40 has provided proof of installation.

1 (iv) Upon a fourth offense or any subsequent violation, the
2 person shall install an ignition interlock device in all vehicles
3 owned or operated by that person for a mandatory term of 36
4 months that begins once that person has provided proof of
5 installation.

6 (B) A person convicted of Section 23153 shall install an ignition
7 interlock device, as follows:

8 (i) Upon a first offense, the person shall install an ignition
9 interlock device in all vehicles owned or operated by that person
10 for a mandatory term of 12 months that begins once that person
11 has provided proof of installation.

12 (ii) Upon a second offense, the person shall install an ignition
13 interlock device in all vehicles owned or operated by that person
14 for a mandatory term of 24 months that begins once that person
15 has provided proof of installation.

16 (iii) Upon a third offense, the person shall install an ignition
17 interlock device in all vehicles owned or operated by that person
18 for a mandatory term of 36 months that begins once that person
19 has provided proof of installation.

20 (iv) Upon a fourth offense or any subsequent violation, the
21 person shall install an ignition interlock device in all vehicles
22 owned or operated by that person for a mandatory term of 48
23 months that begins once that person has provided proof of
24 installation.

25 (8) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply
26 to this section.

27 (9) If a person fails to comply with any of the requirements
28 regarding ignition interlock devices, the mandatory term for which
29 the ignition interlock device is required to be installed shall be
30 reset by the department.

31 (b) The pilot program shall require a person subject to this
32 chapter to complete an enhanced alcohol and drug treatment and
33 rehabilitation program that focuses on rehabilitation.

34 (c) This section does not permit a person to drive without a valid
35 driver's license.

36 (d) The requirements of this section are in addition to any other
37 requirements of law.

38 (e) This section shall become operative on July 1, 2010.

39 23701. On or before January 1, 2014, the Department of Motor
40 Vehicles shall report to the Legislature regarding the effectiveness

1 of the pilot program authorized under this chapter in reducing the
2 number of first-time violations and repeat offenses of Sections
3 ~~23152 and 23153 in the counties of _____, _____, _____, and _____.~~
4 *23152 and 23153 in the Counties of Alameda, Los Angeles,*
5 *Sacramento, and San Diego.*

6 23702. This chapter shall remain in effect only until January
7 1, 2015, and as of that date is repealed, unless a later enacted
8 statute, that is enacted before January 1, 2015, deletes or extends
9 that date.

10 SEC. 2. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.